

DECLARATION  
OF  
SUMMERFIELD AT RIVER HILL CONDOMINIUM ASSOCIATION, INC.

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DECLARATION

OF

SUMMERFIELD AT RIVER HILL CONDOMINIUM ASSOCIATION, INC.

THIS DECLARATION, Made this 8<sup>th</sup> day of October, 2001, by BEAZER HOMES CORP., hereinafter referred to as the "Developer".

WHEREAS, the Developer is the fee simple owner of certain land situate in Howard County, Maryland and described in "Exhibit 1" attached hereto and made a part hereof (hereinafter called the "Property") and desires to submit the whole of said land, together with the Building erected thereon and all rights, alleys, ways, privileges, appurtenances and advantages thereunto belonging, or in any way appertaining, to a Condominium Regime established under the provisions of the Maryland Condominium Act, Sections 11-101, et sec., of the Real Property Article of the Annotated Code of Maryland, as amended (hereinafter called the "Act") and hereby to establish for the Property a Condominium Regime (hereinafter called the "Regime"); and

WHEREAS, the Property shall be held, conveyed, divided, subdivided, leased, rented and occupied, improved, hypothecated or encumbered, subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens, hereafter set forth, including provisions of the By-Laws of Summerfield at River Hill Condominium Association, Inc. intended to be recorded immediately following hereafter among the Land Records of Howard County, Maryland and all notes, legends, memoranda and other data appearing on the Condominium Plats hereinafter described, all of which are declared and agreed to be in aid of a plan for the improvement of the Property, and the division thereof into condominium units and common elements and shall be deemed to run with and bind the land, and shall inure to the benefit of and be enforceable by the Developer, its successors and assigns, and any person acquiring or owning an interest

in the Property and improvements, including without limitation, any person, group of persons, corporation, trust or other legal entity or any combination thereof which holds such interest solely as security for the performance of an obligation.

NOW THEREFORE, THIS DECLARATION WITNESSETH: That Developer, its successors and assigns, does hereby expressly establish and declare the following:

1. Creation of the Condominium Regime.

A. The Developer hereby submits the land described in "Exhibit 1" and the improvements constructed thereon hereinafter described and shown on the Plat of Condominium Subdivision, Sheets 1 through 3 (recorded simultaneously herewith), entitled "Summerfield at River Hill Condominium" to a Regime provided for by the Act, and establishes a Regime as therein provided containing one (1) Building having a total of six (6) units and common elements.

B. The land, as improved by the Building(s) and improvements constructed thereon, is more fully described in Plats recorded among the Land Records of Howard County simultaneously herewith consisting of three(3)sheets designated as the "Summerfield at River Hill Condominium" (hereinafter referred to as the "Plats"). Said Plats are considered a part hereof as if fully incorporated herein.

2. Additional Phases.

A. The Developer intends to construct a maximum of ten (10) additional Buildings and common elements as shown on Sheet 1 of the Condominium Plat aforesaid in a maximum of ten (10) additional areas designated thereon as Future Phases, hereinafter called the "Additional Phases". The Developer hereby reserves the irrevocable right for a period of seven (7) years after the date hereof to add such Additional Phases to the Regime established hereunder, in accordance with the procedure provided herein and in the Act, up to a maximum of fifty (50) additional units and common elements; so that the maximum total number of units in

the Regime, when fully expanded, shall be fifty-six (56).

B. Each Unit Owner in the Regime established hereunder, as the same is constituted from time to time, and each holder of a mortgage on any such Unit or beneficiary of or Trustee in a deed of trust on any Unit, shall be deemed to have acquiesced to the Amendment of this Declaration, and By-Laws and the Supplement to the Condominium Plats as may be required for the purpose of adding the additional Units and Common Elements as set forth above and shall be deemed to have given the Developer, its successors and assigns and Trustees under Deeds of Trust, an irrevocable power of attorney, coupled with an interest, to effectuate such Amendment and to have agreed to and covenanted to execute such further documents, if any, as may be required by the Developer to properly accomplish such Amendment.

C. The submission of the Additional Phases shall be accomplished by the Developer filing among the Land and Plat Records of Howard County, Maryland, the appropriate Amendment to this Declaration and Supplement to the Condominium Plats, containing appropriate certifications that the Phase in question has been completed as shown thereon, and thereafter the Developer, its successors and assigns, may convey unto each Unit Owner in the Phase to be added by such Amendment an undivided interest in the Common Elements of the Phase submitted to the Regime prior to such Amendment, along with an undivided interest in the Common Elements of the Phase to be added by such Amendment. Such interests to be in proportion to the Percentage Interests as set forth in Paragraph 6 hereof and applicable, as therein provided, to the Regime after the addition of the Phase submitted by such Amendment. In order to effectuate the foregoing, the undivided interests in the Common Elements in the Phase submitted to the Regime prior to the Amendment in question, which are to be conveyed to Unit Owners in the Phase to be added by such Amendment, shall automatically revert to and be vested in the Developer, its successors and assigns and Trustees under Deeds of Trust, upon the filing of such Amendment.

D. It is the further intent and purpose hereof and it is hereby declared, that as each Additional Phase is added to the Regime, each owner of a Unit in the Regime as the same is constituted prior to the Amendment (and the holder of any mortgages or beneficiary of or Trustee in any Deed of Trust on such Unit, as its interests appear), shall have and be vested with an undivided interest in the Common Elements in the Additional Phase added, such interest to be in proportion to the Percentage Interests as set forth in Paragraph 6 hereof and applicable as therein provided to the Regime after the addition of the Phase submitted by such Amendment, and that such vesting shall occur immediately and absolutely upon the filing of the Amendment adding the Additional Phase, without the necessity of any separate conveyance of such interests.

E. It is the further intent and purpose hereof, and it is hereby specifically declared, that the provisions of Section 11-120 of the Act shall be applicable to the Regime created hereunder and the Developer does hereby elect to conform to the requirements of Section 11-120.

F. The foregoing notwithstanding, the Developer shall execute and record, from time to time, as may be reasonably required by any Unit Owner or holder of any mortgage or any beneficiary of any Deed of Trust on any Unit, such other and further instruments of conveyance as may be necessary in the circumstances to validly carry out the intent and purpose set forth above with regard to vesting of interests in the Common Elements.

G. The Developer, without the consent of the Unit Owners, shall have the right to change, modify or substitute Building and Unit types to be constructed upon the Property, and to add Additional Phases in any order it determines, as said Property is now or hereafter submitted to this Regime.

### 3. Description of the Buildings.

Phase 1 of the Condominium consists of one (1) Building containing a total of six (6) separately designated and legally described fee simple estates,

consisting of six (6) condominium units ("Condominium Units") as shown on the aforementioned Condominium Plats prepared and certified by registered surveyors in the State of Maryland, which Plats are intended to be recorded simultaneously herewith. The Building is a two (2) level townhouse structure, as shown on the Condominium Plats.

4. The Name of the Condominium.

This Condominium Regime shall be known as:

SUMMERFIELD AT RIVER HILL CONDOMINIUM ASSOCIATION, INC.

5. Units.

A. Units.

1. Each Unit shall be conveyed by the name of the Condominium and its Unit number (which number is designated on the Plats. The dimensions, area, and location of each Condominium Unit are shown on the Plats as described above.

2. Each Unit shall consist of an enclosed space or spaces designated as a single family dwelling. The Unit shall occupy that Building or part of the Building as shown on the Plats recorded as aforesaid.

3. Each Unit shall consist of:

a. The Unit shall be a two-level Unit with garage as shown on the Plats. The lower boundary of the Unit is a horizontal plane or planes, the elevation of which coincides with a plane ten (10) feet below the lower unexposed surface of the concrete foundation slab, extending to intersect the lateral boundaries thereof. The upper boundary is a horizontal plane the elevation of which is fifty (50) feet above the lower elevation, extending to intersect the lateral boundaries thereof as extended to meet same. The lateral boundaries of such Unit are the vertical planes coinciding with the exterior exposed surfaces of the exterior walls, extending to intersect the upper and lower boundaries thereof and the other lateral boundaries of the Unit. All dwelling and garage walls,

roofs and roofing materials, siding, windows, window heads with keystones, window frames, doors and frames, exterior railings, sunbursts, fascia, freeze boards, concrete panels, trim and trim boards, soffets, rake boards, brick, lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, flooring, carpet and any other materials constituting any part of the finished surfaces thereof are a part of the Unit.

b. Where two Units are contained in a Building, and share a party wall, as shown on the Plats, the Unit shall include all of such structure as described in (i) above, with the perimeter boundary between the Units being the centerline of the shared party wall extended to the upper and lower boundaries described above. All other provisions of this Paragraph 5 shall apply except, where such Units share or are served by common plumbing, heating, air conditioning and other utility equipment or lines, pipes, and conduits, regardless of location, such equipment, lines, pipes and/or conduits shall be deemed to be Limited Common Elements of the Units served thereby with responsibility for maintenance and the costs therefor shared by such Units.

c. Any air space lying upward from the lower boundary of the Unit, inward from the perimeter of the Unit and below the upper boundary of that Unit;

d. Improvements, which shall include, but not be limited to: second story balconies; fireplaces, chimneys and flues; interior partitions; doors (including frames, trim, casings and thresholds); window glass and window frames (including drip caps, sills, sashes, trim, molding and casings), pipes, conduits, ducts, switches, vents, wiring, fixtures or other facilities for the provision of heat, ventilation, air conditioning, plumbing, electrical power, lighting, telephone service or television reception (to the extent such ownership is not retained by the company supplying such service); all plumbing, electrical and mechanical equipment within the Unit designed for use by that Unit only; and any and all other building components, fixtures and/or equipment located within the boundaries of that Unit.



e. The heat pump, heat pump pad, and the air space above (but extending only up to the plane forming the top of the Unit), as they appear on the aforesaid Plats, even though the same may be within the General or Limited Common Elements as defined herein.

4. Each Unit shall be used only for residential purposes by the Unit Owner or Owners thereof, his family, guests, invitees, or other occupants, or the lessees of the Unit Owner, their families, guests, invitees or other occupants, except as otherwise provided in the By-Laws or the Maryland Condominium Act. The Board of Directors of the Council of Unit Owners (hereinafter, the "Board") may approve (which approval may be rescinded) incidental use of a portion of a particular Unit for professional or personal office use. The Developer, until all Units have been conveyed, may use one or more Units, at its discretion, for model Units for purposes of sales and marketing, and may also maintain a sales office in one or more of the Units, at its discretion, for the same period of time. No Unit may be leased by any Unit Owner for a period of less than six (6) months. No less than the entire Unit may be leased by a Unit Owner.

B. General Provisions Applicable to Units.

1. It is the intention that each Condominium Unit shall consist of that space shown on the Plats recorded as aforesaid as the Unit area both in the horizontal and in the vertical.

2. Each Unit and the General and Limited Common Elements (described generally hereinafter), are more specifically shown on the Plats and the Developer intends that said Plats shall diagrammatically govern where this Declaration is silent.

3. No building or structure shall ever be erected, constructed, altered, reconstructed, placed or permitted to remain on all or any part of the land of the Condominium other than dwelling Units designed for single family occupancy and/or such incidental personal office or professional use as described above, including residential condominium Units in connection with the establishment of a Condominium Regime pursuant to the

Act, or buildings or structures rendering service or providing recreational facilities to the Regime, and associated improvements for the exclusive use and benefit of all Unit Owners.

6. Percentage Interests.

A. Each Unit shall have the same Percentage Interest in the Common Elements of the Condominium Regime. The Percentage Interest in the Common Elements of the Condominium Regime for each Unit, expressed as a fractional formula, shall always have as its numerator the number 1 and the denominator thereof shall be the total number of Units submitted to the Regime.

B. The Percentage Interest in the Common Expenses and Common Profits for each Unit in each Phase shall be calculated in accordance with the preceding Paragraph 6A. hereof. The Percentage Interests may be changed only in accordance with the Act.

7. Description of Common Elements and Common Expenses.

A. All areas and facilities which are not part of a Unit or not Limited Common Elements comprise the General Common Elements, as graphically shown on the Plats.

B. The Common Elements shall be exclusively owned in common by all of the Unit Owners. The Common Elements shall remain undivided and no Unit Owner shall bring any action for partition or division of the whole or any part thereof except as otherwise provided by the Act and in that event all mortgagees must, in writing, consent.

C. Except as hereinabove provided, all Common Elements in the Condominium are subject to perpetual easements for the use in common thereof for ingress, egress and utilities. This provision and covenant shall run with the land and the benefits and burdens thereof, and shall inure to the benefit of and be binding upon the Developer, its successors and assigns and the Unit Owners, their heirs, successors, personal representatives and assigns.

D. The cost of maintaining, repairing and replacing the General Common Elements shall be borne by the Council of Unit Owners as an item of Common Expense.

E. Each Unit Owner, in proportion to his Percentage Interest in the Common Expenses and Common Profits, shall contribute toward payment of the Common Expenses and no Unit Owner shall be exempt from contributing toward said Common Expenses either by waiver of the use or enjoyment of the Common Elements, or by the abandonment of his Unit. The contribution of each Unit Owner toward Common Expenses shall be determined, levied and assessed as a lien, all in the manner set forth in the By-Laws which are being recorded among the Land Records of Howard County, Maryland simultaneously herewith (hereinafter called the "By-Laws").

F. As defined in the Act, this Regime has the following Limited Common Elements, which are reserved for the exclusive use of the Unit(s) to which they are declared to be appurtenant by appropriate designation on the Plats:

1. All ground level or first story porches, decks, stoops and/or steps;

2. All front, rear and/or side yard areas as designated on the Plats, and all sidewalks located within the boundaries thereof.

3. All driveways appurtenant to the Units.

#### 8. Condominium Units and Common Elements.

A. If any Common Elements, or any part thereof, now or at any time hereafter, encroach upon any Unit, or any Unit encroaches upon any Common Element or other Unit, whether such encroachment is attributable to construction, settlement, or shifting of the Building, or any other reason whatsoever beyond the control of the Board or any Unit Owner, there shall arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, either for the benefit

of the Board or for the Unit Owner, their respective heirs, personal representatives, successors and assigns, to provide for the encroachment and non-disturbance of the Common Element, or the Unit, as the case may be. Such easement shall remain in full force and effect so long as the encroachment shall continue.

B. Conveyance or other disposition of a Unit shall be deemed to include and convey, or be subject to, any easement arising under the provisions of this Paragraph without specific or particular reference to such easement.

9. Pipes, Ducts, Cables, Wires, Conduits, and Public Utility Lines Located Inside of Units.

Each Unit Owner shall have an easement in common with the owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and the like located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and the like serving such other Units and located in such Unit.

10. Easements.

A. In addition to the easements reserved on the Plats aforesaid for the benefit of the Developer, its successors and assigns and Mortgagees, Beneficiaries and Trustees under Deeds of Trust:

1. Developer, for itself, its successors and assigns, hereby declares that every Unit Owner shall have a perpetual easement in, upon, through and over the land shown on the Plat recorded simultaneously herewith, to keep, maintain, use, operate, repair and replace his Unit in its original position and in every subsequent position in which it is located by reason of the gradual forces of settlement, nature and the elements.

2. Developer hereby reserves unto itself, its successors and assigns, an easement in, upon, through and over the Common Elements, for as long as the said Developer, its successors and assigns and

Mortgagees, Beneficiaries and Trustees under Deeds of Trust, shall be engaged in the construction, development and sale of Units, which easement shall be for the purpose of construction, installation, maintenance and repair of the existing Buildings and appurtenances thereto, for ingress and egress to all Units and all Common Elements, and for use of all sidewalks, walkways, roadways, and parking areas, if any, and existing and future model units for sales promotion and exhibition. In addition, Developer hereby reserves the irrevocable right to enter into, upon, over or under any Unit for a period of three (3) years after the date of delivery of the Unit deed for such purposes as may be reasonably necessary for the Developer or its agents to complete the Regime or service any Unit thereof, upon the giving of reasonable notice to the Unit Owner.

3. Developer reserves unto itself, its successors, assigns and agents, an easement in, upon, through and over the land comprising the Common Elements for the purpose of installation, maintenance, repair, and replacement of all sewer, water, stormceptors, power and telephone, pipes, lines, mains, conduits, poles, transformers and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility system(s) serving the Regime.

4. Developer acknowledges and discloses that a storm drainage system will be installed upon the Condominium Property, as well as upon adjoining property owned by the Ryland Group, Inc. and described in a Deed dated January 30, 2001 and recorded among the land records of Howard County, Maryland in Liber 5339, folio 114 (the "Ryland Parcel") and property owned by the Howard Research and Development Corporation ("HRD") described in a Deed dated December 18, 2000 and recorded among the aforesaid Land Records in Liber 5289, folio 330 (the "HRD Parcel"). The Developer reserves unto itself, its successors and assigns, the right to enter into easement agreements subsequent to the date of recordation of this Declaration for the purpose of memorializing the grant of easements to Ryland and HRD allowing the Ryland Parcel and HRD Parcel to share in the benefit of the installation of storm drains, structures and pipes which will conduct storm water from those two parcels across the Condominium Property and

into stormceptors located upon property owned by Columbia Association, Inc. By acceptance of the Deed to any Unit or by the acceptance of any other legal or equitable interest in a Unit or the Common Elements, each and every such contract purchaser, Unit Owner, mortgagee or other lien holder or party having a legal or equitable interest in any Unit or Common Element does automatically and irrevocably name, constitute, appoint and confirm the Developer, its successors and assigns, as attorney-in-fact for the purpose of executing such easement agreements, documents, supplements and/or other instrument (as necessary) to effect the memorialization, of the easements referred to in this Paragraph 4. The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Units and Common Elements and shall be binding upon the heirs, personal representatives, successors, transferees and assigns of the foregoing parties. Said power of attorney shall be vested in the Declarant, its successors and assigns, until conveyance of all fifty-six (56) Units and appurtenant Common Elements into the jurisdiction of the Condominium.

5. Each Unit Owner shall have a perpetual easement for the continuance of any encroachment by his Unit on any adjoining Unit or on any General or Limited Common Element, now existing as a result of construction of the Building or which may come into existence hereafter as a result of the reconstruction of the Building or a Unit after damage by fire or other casualty, or as a result of condemnation or eminent domain proceedings, so that any such encroachment may remain undisturbed so long as the Building stands.

B. Developer acknowledges and discloses that a community association is to be constructed upon the parcel of land adjoining the Property (the "Adjoining Property"). The Developer and the owner of the Adjoining Property have entered into a Declaration of easements, Conditions and Restrictions (the "Agreement"), pursuant to which each has granted to the other, and the owners and residents of dwellings located upon the Property and Adjoining Property, the right to utilize certain common elements and areas upon each other's parcel of land. Subject to the provisions of

the Agreement, the Developer hereby grants, for the benefit of the residents of the Adjoining Property, a non-exclusive easement, license, right and privilege, in common with the Unit Owners and residents of the Property, of (a) ingress and egress over the Common Elements in order to use and enjoy the Recreational Facilities located upon the Property and (b) the right of use of the Recreational Facilities located upon the Property. The Developer reserves unto itself, its successors and assigns, the right to enter into easement agreements subsequent to the date of recordation of this Declaration for the purpose of memorializing the grant of easements to the adjoining property by its owners. By acceptance of the Deed to any Unit or by the acceptance of any other legal or equitable interest in a Unit or the Common Elements, each and every such contract purchaser, Unit Owner, mortgagee or other lien holder or party having a legal or equitable interest in any Unit or Common Element does automatically and irrevocably name, constitute, appoint and confirm the Developer, its successors and assigns, as attorney-in-fact for the purpose of executing such easement agreements, documents, supplements and/or other instrument (as necessary) to effect the memorialization, of the easements referred to in this Paragraph B. The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in a subject matter hereof and the same shall run with the title to any and all Units and Common Elements and shall be binding upon the heirs, personal representatives, successors, transferees and assigns of the foregoing parties. Said power of attorney shall be vested in the Declarant, its successors and assigns, until conveyance of all fifty-six (56) Units and appurtenant Common Elements into the jurisdiction of the Condominium. The easements, licenses, rights and privileges granted herein shall be subject to any reasonable rules and regulations promulgated by the Council regarding the use of the Recreational Facilities.

C. The Council of Unit Owners or authorized designee shall have an irrevocable right and easement to enter Units and Limited Common Elements to make repairs when the repairs reasonably appear necessary for public safety or to prevent damage to other portions of the Condominium Regime. Except in cases involving manifest

danger to public safety or property, the Council of Unit Owners shall make a reasonable effort to give notice to the Owner of any Unit or Limited Common Element to be entered for the purpose of such maintenance and repair. If damage is inflicted on the Common Elements or any Unit through which access is taken, the Unit Owner responsible, or the Council of Unit Owners if it is responsible, shall be liable for the prompt repair thereof. An entry by the Council of Unit Owners for the purposes specified in this Paragraph may not be considered a trespass.

D. The Council shall have the authority to grant such easements, rights-of-way, licenses, leases in excess of one (1) year or similar interest through or over the Common Elements as is provided in the Act.

11. Units Subject to Village Covenants, Declaration, By-Laws and Rules.

The Property is located within the boundaries of the Columbia Association, Inc. ("CA") and River Hill Community Association, Inc. (the "Village Association"). CA has imposed upon all properties located within the boundaries of the Village Association a Deed, Agreement and Declaration of Covenants, Easements, Charges and Liens (recorded among the Land Records of Howard County in Liber 463, page 158) and River Hill Village Covenants (recorded among the aforesaid Land Records in Liber 2373, page 348), which documents are collectively referred to herein as the "Village Covenants".

All present and future Owners, tenants, and other occupants of Units shall be subject to, and shall comply with, the provisions of the Act, the Village Covenants, this Declaration, the By-Laws, and any Amendments thereto, and the Rules as provided for in the By-Laws, as they may be amended from time to time. The acceptance of a deed of conveyance, the entry into a lease agreement, or the commencement of occupancy of any Unit shall constitute an agreement that the provisions of the Village Covenants, this Declaration, the By-Laws and the Rules, as they may be amended from time to time, are accepted and ratified by such Owner, tenant, or other occupant; and all of such provisions shall be deemed and taken to be covenants running with the land,



and shall bind any person having any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

12. Membership and Voting in Council of Unit Owners.

Each owner of a Unit shall automatically, upon becoming the Owner of a Unit or Units, be a member of the Council of Unit Owners of this Condominium Regime (hereinafter referred to as the "Council") and shall remain a member of said Council until such time as his ownership ceases for any reason, at which time his membership in said Council shall automatically cease. Each Unit in each phase shall have one (1) vote at meetings of the Council and said one (1) vote is appurtenant to each Unit.

13. Mortgagee Protection.

A. This Paragraph establishes certain standards and covenants which are for the benefit of holders, insurers and guarantors of certain mortgages, deeds of trust, or other security interests in Units within the Regime. This Paragraph is supplemental to, and not in substitution for, any other provisions of this Declaration and By-Laws but, in the case of conflict, this Paragraph shall control. For the purposes of this Paragraph, the Declaration, and By-Laws, the term "Eligible Mortgagee" shall mean and refer to the holder of a first mortgage, deed of trust or other security interest in a Unit, which has notified the Council, in writing, of its name and address and that it holds a security interest in a Unit. Such notice will be deemed to include a request that the Eligible Mortgagee be given the notice and other rights described in this Paragraph.

B. Wherever in this Declaration or the By-Laws the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding security interests in Units which in the aggregate have allocated to them such specified percentage of

votes in the Council as compared to the total allocated to all Units then subject to security interests held by Eligible Mortgagees.

C. The Council shall give prompt written notice to each Eligible Mortgagee of (and each Unit Owner hereby consents to, and authorizes such notice):

1. Any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Unit in which there is a first security interest held, insured, or guaranteed by such Eligible Mortgagee;

2. Any delinquency in the payment of assessments owed by a Unit Owner whose Unit is subject to a first security interest held, insured, or guaranteed by such Eligible Mortgagee, which remains uncured for a period of sixty (60) days;

3. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Council;

4. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as set forth in Subparagraph D of this Paragraph 13;.

5. Notwithstanding any provision in the Declaration or By-Laws to the contrary, no amendment of any material provision of the Declaration or By-Laws described herein shall be effective without notice to all Eligible Mortgagees as required in Subparagraph C above and, upon approval of the requisite number of votes of Unit Owners otherwise required in the Declaration and By-Laws, the approval of at least fifty-one (51%) of the Eligible Mortgagees, or any greater Eligible Mortgagee approval required in Section 11-103(c)(1)(i) through (iv) of the Act. A change to any of the following will be considered material:

a. Voting Rights;

b. Assessments, Assessment Liens or Priority of Assessment Liens;

c. Reserves for Maintenance, Repair and Replacement of Common Elements;

d. Responsibility for Maintenance and Repairs of Units and Common Elements;

e. Reallocation of percentage interest in the Common Elements, or rights to their use;

f. Convertibility of Units into Common Elements or vice-versa;

g. Expansion or contraction of the Regime, or the addition, annexation or withdrawal of property to or from the Regime;

h. Insurance or fidelity bond;

i. Leasing of Units;

j. Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit;

k. A decision by the Council to establish self-management;

l. Restoration or repair of the Regime after a hazard damage or partial condemnation, in a manner other than that specified in the Declaration and By-Laws;

m. Termination of the Regime after occurrence of substantial destruction or condemnation; and

n. Any other provision that expressly benefits mortgage holders, insurers, or guarantors.

6. Notwithstanding any provision in the Declaration or By-Laws to the contrary, the Council may not take any action to terminate the Regime for reasons other than substantial destruction or condemnation without notice to all Eligible Mortgagees and approval of at fifty-one (51%) of the Eligible Mortgagees.

7. The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Council delivered by certified or registered mail, return receipt requested, for approval of an addition or amendment to the Declaration or By-Laws, whenever Eligible Mortgagee approval is required, shall constitute an implied approval of the addition or amendment.

14. Exterior Modifications.

Unit Owners may not make exterior changes to their Units without first obtaining consent, as set forth in Article XI of the By-Laws.

15. Maintenance, Repair and Replacement.

A. The following items of maintenance, repair and replacement shall be performed by the Unit Owners and such maintenance, repair and replacement shall not be an item of Common Expense subject to the lien of assessments created herein:

1. The maintenance, repair and replacement of all glass and glazing in Units including windows and doors; and

2. The washing of all exterior windows and glass door lites.

3. The maintenance, repair and replacement of Limited Common Element driveways, sidewalks, balconies, patios, decks, stoops and stairs.

B. The Council shall be responsible for the maintenance (including grass cutting), repair and/or replacement of the yard area Limited Common Elements.

C. Expenses incurred by the Council for maintenance of Limited Common Elements may be assessed against the Unit Owner(s) who enjoy the exclusive right to use such Limited Common Elements. Assessments for charges incurred pursuant to this Paragraph 15c may be levied and enforced in the same manner as assessments for Common Expenses.

16. Eminent Domain.

A. In this paragraph, the term "taking under the power of eminent domain" includes any sale in settlement of any pending or threatened condemnation proceeding.

B. This Declaration specifically provides for an allocation of any award for a taking under the power of eminent domain of all or a part of the Condominium. This Declaration also provides for (1) reapportionment or other change of the percentage interests appurtenant to each Unit remaining after taking; (2) the rebuilding, relocation or restoration of any improvements so taken in whole or in part; and (3) the termination of the Condominium Regime following any taking.

C. Any damages for a taking of all or part of a condominium shall be awarded as follows:

1. Each Unit Owner shall be entitled to the entire award for the taking of all or part of his respective Unit and for consequential damages of his Unit.

2. Any award for the taking of Limited Common Elements shall be allocated to the Owners of the Units to which the use of those Limited Common Elements is restricted in proportion to their respective percentage interests in the Common Elements.

3. Any award for the taking of General Common Elements shall be allocated to all Unit Owners in proportion to their respective Percentage Interests in the Common Elements.

D. Following the taking of a part of the Condominium, the Council of Unit Owners shall not be obligated to replace improvements taken but promptly shall undertake to restore the remaining improvements of the Condominium to a safe and habitable condition. Any costs of such restoration of Common Elements shall be a Common Expense. The cost of restoration of a Unit shall be borne by the Owner of that Unit and shall not be an item of Common Expense.

E. Following the taking of all or a part of any Unit, the Percentage Interests appurtenant to the Unit shall be adjusted in proportion to the amount of floor area of the Unit so taken bears to the floor areas of the Unit prior to the taking. Those Units not the subject of the taking shall have their respective Percentage Interests adjusted accordingly, by computing the revised Percentage Interest of each such Unit as the percentage for each such Unit after the taking bears to the total number of remaining Units after the taking; thereby assuring that the total Percentage Interests for all Units will always equal one hundred (100%) percent. The Council shall promptly prepare and record an amendment to the Declaration reflecting the new Percentage Interests appurtenant to the Units. Subject to sub-paragraph G, (1) following the taking of part of a Unit the votes appurtenant to that Unit shall be appurtenant to the remainder of that Unit and (2) following the taking of all of a Unit the right to vote appurtenant to the Unit shall terminate.

F. All damages for each Unit shall be distributed in accordance with the priority of interests at law or in equity in each respective Unit.

G. Except to the extent specifically described in the Condemnation Declaration or grant in lieu thereof, a taking of all or part of a Unit may not include any of the Percentage Interests or votes appurtenant to the Unit.

17. Termination of Regime.

Each Unit Owner in the Condominium covenants and agrees that abandonment or termination of the Regime herein created is subject solely to and shall be accomplished in strict accordance with the Act.

18. Administration of Condominium.

The affairs of the Condominium shall be governed by the Council, an entity incorporated as a non-stock corporation, organized and existing under the laws of Maryland, the members of which shall be the Unit Owners. The Council shall have the rights, powers and duties which are vested in, exercisable by or imposed

upon it by the provisions of this Declaration, the By-Laws or applicable law. As provided in the By-Laws, the Unit Owners shall elect a Board of Directors.

19. Amendment of Declaration.

Except as may otherwise be provided by the Act, this Declaration may be amended in the following manner:

A. For so long as Developer shall own all of the Units, Developer shall have the sole right to amend this Declaration (including any amendments altering the percentage of ownership in Common Elements) which amendments need only be signed and acknowledged by the Developer and recorded among the Land Records of Howard County, Maryland. Such amendment shall specifically refer to the recording date identifying this Declaration.

B. An amendment or amendments to this Declaration may be proposed by the Board, acting upon a vote of the majority of the Directors, or by the Unit Owners holding a majority of votes in the Council as the Council is then constituted, whether meeting as the Council or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by said Board or any Unit Owners, such proposed amendment or amendments shall be transmitted to the President of the Council, or other officers of the Council in the absence of the President, who shall thereupon call a special meeting of the Council for a date not less than ten (10) days nor more than ninety (90) days from receipt by him of the proposed amendment or amendments; and it shall be the duty of the Secretary to give to each Unit Owner written or printed notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days, nor more than ninety (90) days before the date set for such special meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the Unit Owner at his post office address as it appears on the books of the Council, the first class postage thereon prepaid. Any Unit Owner may, by written waiver of notice signed by

such Owner, waive such notice and such waiver, when filed in the records of the meeting, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice of such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of eighty percent (80%) of the Unit Owners of the Regime, as then constituted, in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of this Declaration shall be transcribed and certified by the President and Secretary for the Council as having been duly adopted, and the original or an executed copy of such amendment or amendments, so certified and executed with the same formalities as a deed, shall be recorded in the Land Records of Howard County, Maryland. Thereafter, a copy of said amendment or amendments in the form in which the same were placed on record by the Council shall be delivered to all of the Unit Owners and mailed to the holders of mortgages or Trustees under Deeds of Trust listed in the registry to be maintained in accordance with the By-Laws, but delivery and mailing of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any Unit Owner shall be recognized if such Unit Owner is not in attendance at such meeting, or represented thereat by written proxy, provided such written vote is delivered to the Secretary of the Council at or prior to such meeting.

C. Anything in sub-paragraph B to the contrary notwithstanding, amendments affecting those limitations contained in Section 11-103(c)(1)(i) through (iv) of the Act must be approved by written consent of all Unit Owners of the Regime and all holders or mortgages or Trustees under Deeds of Trust on Units, as provided herein, in order for such amendment or amendments to become effective.

## 20. Invalidity.

The invalidity of any provisions of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and, in such event, all of



the other provisions of this Declaration shall continue in full force and effect as if such invalid provisions had never been included herein.

21. Waiver.

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

22. Compliance.

This Declaration is set forth in compliance with the requirements of Section 11-101, et seq. of the Act. In the event of any conflict between the Act and this Declaration, the provisions of the Act shall control.

23. Captions.

The captions and Table of Contents contained in this Declaration are for convenience only, and are not intended in any way to limit or enlarge the terms and provisions of this Declaration.

24. Gender, Etc.

Whenever in this Declaration the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

WITNESS the hand and seal of said Developer as of the date first herein written.

WITNESS:

Julie Miller

BEAZER HOMES CORP.

By: Robert Gentry (SEAL)  
Robert G. Gentry,  
Attorney-in-Fact

STATE OF MARYLAND, County OF Howard, TO WIT:

On this 8 day of October, <sup>2001</sup>~~2000~~, before me, the undersigned, a Notary Public of the State aforesaid, personally appeared Robert G. Gentry, who acknowledged himself to be Attorney-in-Fact of Beazer Homes Corp., a Tennessee corporation, and that he, as such Attorney-in-Fact, being authorized so to do, executed the foregoing Declaration for the purposes therein contained, as his act.

IN WITNESS WHEREOF the hand and notarial seal.

Laurene Nickle  
Notary Public

My Commission Expires: LAURENE NICKLE  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires May 1, 2003

I hereby affirm under penalty of perjury that the notice requirements of Section 11-102.1 of the Real Property Article, if applicable, have been fulfilled.

BEAZER HOMES CORP.

By: Robert Gentry  
Robert G. Gentry